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**From Juvenile System Reform  
to a Conflict of Civilizations  
in Contemporary Russian Society**

**Kathy Rousselet**



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## **From Juvenile System Reform to a Conflict of Civilizations in Contemporary Russian Society**

Abstract

Juvenile delinquency has fueled debate in Russian society for many years. Numerous associations, NGOs and international organizations have raised public awareness of the problem and have encouraged the government to place judicial reform on its agenda. However, debate over institution of the reform, the various possible models and how to structure the relationship between social and judicial institutions has been limited. Discussion has instead focused on the relative priorities to be given to the interests of children versus those of the family, so-called traditional versus liberal values, and the extent to which the state should interfere in the private lives of Russian citizens. Discussion of the actual situation of youths at risk and the concrete problems posed by reform has been overshadowed by rumors, encouraged by a discourse of fear in an increasingly violent society that tends to distort the real problems. Additionally, implementation of international norms and judicial reform has been largely blocked by the patriotic agenda of the state.

## **De la réforme de la justice des mineurs au conflit de civilisations dans la société russe contemporaine**

Résumé

La question du traitement des mineurs délinquants enflamme la société russe depuis de nombreuses années. Plusieurs associations, ONG et organisations internationales ont alerté l'opinion publique sur la situation de l'enfance dans le pays et incité l'Etat à inscrire la réforme de la justice des mineurs à son calendrier politique. Mais les débats autour de sa mise en place, de ses différents modèles possibles et des formes à donner aux relations entre institutions sociales et judiciaires sont restés limités. Ils ont été dépassés par d'autres enjeux plus larges, tels la priorité qu'il faudrait ou non accorder aux enfants par rapport à leur famille, la place des valeurs dites « traditionnelles » par rapport aux valeurs libérales, et le degré d'intrusion possible de l'Etat dans la vie privée des citoyens russes. La discussion sur la situation réelle des enfants à risque et les problèmes concrets posés par la réforme a été remplacée par une rumeur, nourrie par un discours de crainte dans une société de plus en plus violente, qui déforme les problèmes véritables. L'implémentation des normes internationales et la mise en place d'une réforme de la justice des mineurs semblent en outre largement entravées par l'agenda patriotique de l'Etat.

# From Juvenile System Reform to a Conflict of Civilizations in Contemporary Russian Society

Kathy Rousselet *Ceri-Sciences Po*

Juvenile justice has fired passions in Russian society for many years. Numerous associations, NGOs and international organizations have raised public awareness of the problem and have prompted the government to place judicial reform on its agenda. The deep socioeconomic upheavals of the 1990-2000 decade led to a rise in the number of children at risk, both children “deprived of parental care” and children “without supervision,”<sup>1</sup> an increase in mistreatment and an escalation of juvenile delinquency. It is particularly difficult to obtain precise data on the issue, these being manipulated by both advocates and opponents to reform. In 2006, out of the 29 million children living in Russia, an estimated 731,000 were deprived of parental care and 6 million lived in harsh social and economic conditions.<sup>2</sup> According to figures given by experts, some 60,000 parents each year are deprived of their parental rights, or even more.<sup>3</sup> Russia has one of the highest juvenile detention rates in the world<sup>4</sup> and the recidivism rate is also very high, between 40 and 50 %.<sup>5</sup> In addition to this very distressing situation, international norms have imposed a policy shift.

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<sup>1</sup> The former are estranged from their families, which is not the case for the latter.

<sup>2</sup> P. Dutkiewicz, A. Keating, M. Nikoula and E. Shevchenko, *Juvenile Justice in Russia: Models, Design and the Road Ahead*, Ottawa, Canadian International Development Agency, 2009, p. 9.

<sup>3</sup> Aleksey Rudov, Elena Katiushkina, *Zaschita interesov detey v Rossii i v regionakh za 2011 god*, Moscow, 2012 <http://fr.slideshare.net/RussianDonorsForum/orphanage-in-russia-2011-report-appendix-1>

<sup>4</sup> During the first half of the 2000s, rates reached 28 per 100,000, just behind the United States (30 per 100,000). Boris Altshuler, “Rights of Children in Russia in the European perspective.” Participation of Russian NGOs in the preparations of the EU-Russia Human rights consultations. Ljubljana-Slovenia, [http://right-child.ru/ljubljana\\_slovenia.html](http://right-child.ru/ljubljana_slovenia.html). Data from the “Alternative Report – 2005” to the UN Committee on the Rights of the Child (CRC) prepared by the Coalition of Russian NGOs.

<sup>5</sup> Interview with Oleg Zykov by N. Mavlevich, “Yuvenal’naya yustitsiya – dyad’ka s meshkom ili chelovekosberegayushchaya tehnologiya,” *Sem’ya i shkola*, no. 5, 2010, [http://www.juvenilejustice.ru/documents/doc3/int/statem\\_jj/z\\_nan/page2/](http://www.juvenilejustice.ru/documents/doc3/int/statem_jj/z_nan/page2/) (accessed May 20, 2014).

However, debate over how to institute juvenile justice reform, the various models available<sup>6</sup> and how to structure the relationship between social and judicial institutions has been limited, superseded by more broad-sweeping issues, such as the relative priorities to be given to the interests of children versus those of the family, so-called traditional versus liberal values and the extent to which the state should interfere in the private lives of Russian citizens. Given that juvenile delinquency received little currency during the Soviet period, many have interpreted the rise in the phenomenon in the late 1980s as a consequence of economic liberalization and the penetration of liberal values in society. Juvenile justice, as a reform that came from the West, has mobilized “patriots” and “conservatives.” And in a context of clericalization, the Orthodox Church has joined in the debate. Discussion of the actual situation of youths at risk and the concrete problems posed by reform has in fact been overshadowed by rumors, encouraged by a discourse of fear in an increasingly violent society that tends to distort the real issues.

The aim of the present study is to show how, starting from a plan to reform the juvenile justice system, specific conceptions about the child, the family and citizen-state relations are structured and expressed in post-Soviet Russia. The various aspects of the issue will be presented, bearing in mind the definition of juvenile justice given by one of its most fervent champions, Oleg Zykov:

“Juvenile justice in the broad sense is a system of state and non-government structures working together in the children’s interest. It therefore involves not only a dedicated court, but a number of various social services. It is a whole technology that takes care of people. We are fighting for each person.”<sup>7</sup>

The present study will first examine how this reform arrived on the agenda amid a multifaceted Soviet legacy and a desire to modernize society, implying difficulties in implementing international norms in a specific national ideological and institutional context. Legislative evolutions, including bills pertaining specifically to juvenile justice as well as other proposed legislation that is less directly related to the issue but associated with it in the public eye, will then be analyzed. This background will help to better understand the escalation of social mobilization and the undercurrents of a media rumor that has ultimately structured a social problem in terms of a civilizational conflict.

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<sup>6</sup> Three models of justice can be identified: retributive justice; rehabilitative justice, which primarily seeks to help and cure the perpetrator of a crime in order to prevent recidivism; and restorative justice, which seeks to restore the link between society, the perpetrator and the victim through a process of mediation.

<sup>7</sup> “Yuvenal’naya yustitsiya...,” interview cited.

## JUVENILE JUSTICE REFORM SLOWLY REACHES THE AGENDA: BETWEEN SOVIET LEGACY AND MODERNIZATION OF SOCIETY

Reflection on the management of juvenile delinquency began during the democratization process that came about in the late 1980s and the early 1990s, in a broader context of judicial reform.<sup>8</sup> A policy document, *The Concept of Judicial Reform in the Russian Federation*, ratified by the Supreme Soviet on October 24, 1991, introduced the idea that a specific system should be created for minors.<sup>9</sup> Other policy documents have stressed the importance of child welfare, such as decree no. 942 signed by Boris Yeltsin on September 14, 1995, *Fundamental Directions of State Social Policies on Improving the Situation for Children in the Russian Federation until the Year 2000 (National Action Plan in the Interest of Children)*.

The plan to reform the juvenile justice system was conceived in the context of a complex Soviet legacy, a desire to bring Russian legislation in conformity with international norms, and with the participation of various national and international social actors working in a specific ideological and institutional context.

### The Historical Legacy

Juvenile justice in Russia dates back to 1864 and the appearance of correctional facilities; supervision was adapted and the length of detention limited. While the retributive approach dominates Russian tradition, alternative experiments were in practice between 1918 and 1935,<sup>10</sup> a period when social and administrative handling of delinquent minors prevailed over judicial treatment: special commissions, administrative and non-judiciary institutions developed, and the Penal Code of 1926 gave priority to forced education over freedom deprivation sentences. This period was short-lived, however: the commissions, which performed poorly, were done away with in 1935 and the rise in juvenile delinquency prompted a return to the retributive approach. Between 1935 and 1959 the “judiciary model” once again reigned. Special courts for minors were briefly set up again in some cities, including Moscow, and then, as of 1938, people’s courts with judges in charge of juvenile cases were created. As Sarah Hatry and Maria Zakharova note,

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<sup>8</sup> For a broader analysis of the evolution of the judicial system since the early 1990s, see A. Gazier, “Vingt ans de réforme des systèmes juridique et judiciaire en Russie: quelques éléments pour un premier bilan,” *Revue d’études comparatives Est-Ouest*, 38 (2), 2007, pp. 9-30.

<sup>9</sup> See S. Hatry and M. Zakharova, “De l’URSS à la Russie, un droit des mineurs à la croisée des chemins,” *Après-demain*, no. 19, July 2011, pp. 50-54.

<sup>10</sup> On this issue, see S. Hatry and M. Zakharova, “De l’URSS à la Russie...,” *op. cit.*, and D. Caroli, “Eduquer ou punir? Les réformes du traitement de la délinquance juvénile en Russie et en Union soviétique (1897-1935),” *Revue européenne d’histoire sociale*, special report, “Jeunesse déviante et justice, XIX<sup>e</sup>-XX<sup>e</sup> siècles (Europe, Amérique, Russie),” nos. 25-26, April 2008, pp. 64-83.

“The principles behind criminal law in the Soviet Union in 1958 primarily reflected a procedural approach focusing on the proportionality of sentences applicable to minors. The judge could lighten the sentence depending on the circumstances or impose forced education measures.”<sup>11</sup>

The approach changed and lost its purely repressive aspect with the Penal Code and the Criminal Procedure Code enacted in the late 1950s and the early 1960s. In 1961, the Commissions on Minors' Affairs were reinstated. They handled children below the age of criminal responsibility (set at 14) and lesser crimes and offences committed by minors between the ages of 14 and 18. In 1968, penal colonies were set up for youths who had committed one or two criminal offenses. Thus, prior to the Criminal Procedure Code of 2001, a dual system for minors prevailed: cases were handled either by ordinary law courts or the special commissions, which had a certain number of judicial functions.

The legacy of Russian and Soviet treatment of juvenile delinquency explains the current handling of the issue. The retributive approach persists, the role of the state is preponderant and that of social organizations is weak. Traditionally, the role of education and punishment is central.

## **International Norms**

In the 1990s, the political authorities decided to bring Russian legislation into conformity with the Constitution of 1993 and international norms. This trend endures today with a view to modernizing the state. By joining the Council of Europe in 1996, Russia committed to following its recommendations, including R (87) 20 on social reactions to juvenile delinquency. The Council of Europe is opposed to the handling of juvenile delinquency by the judiciary; it recommends a penal system for minors, the primary objective of which should be education and social integration, and “emphasizes alternative measures: mediation, victim compensation, community work and intermediary treatment.”<sup>12</sup> Russia moreover ratified the Convention on the Rights of the Child, implemented through the Federal Law on Basic Guarantees of the Rights of the Child in the Russian Federation passed on July 24, 1998. In addition to these international norms and the United Nations rules and guidelines, although they are not binding in nature: the Beijing Rules (1985), the Riyadh Guidelines (1990), the Havana Rules (1990). In its October 10, 2003 interpretive recommendations titled “On the Application of Universally Recognized International Norms and Standards by Judges of General Jurisdiction,” the Supreme Court stipulated that judges are bound by these international norms and that they supersede Russian laws in the event of a conflict. The Federal Assembly ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse signed by Russia on October 2, 2012, which among other things implies special treatment for minors

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<sup>11</sup> S. Hatry and M. Zakharova, “De l’URSS à la Russie...,” *op. cit.*, p. 51.

<sup>12</sup> D. Sudan, “De l’enfant coupable au sujet de droits: changements des dispositifs de gestion de la déviance juvénile (1820-1989),” *Déviance et société*, 21 (4), 1997, p. 393.



both during the investigation and at the time of rehabilitation, as well as medical, social and psychological aid. What do these norms place emphasis on and what direction is taken by reforms when supranational instruments engage states? According to Dimitri Sudan:

“[They] are justified by a new representation of childhood [...]. Children are no longer perceived as passive beings, innocent victims dependent on adult protection, but as subjects that have rights [...] The new model of juvenile justice that is taking shape on the basis of this representation, of children as a subject of law, thus seems caught in a “two-sided paradox”: on one side, the debt of protection that characterizes a child victim of an offense and on the other, the debt of responsibility for the delinquent minor.”

Although supranational instruments are interpreted in various ways depending on national legal and political traditions, and although the legal concepts they contain are in competition, Dimitri Sudan sees several guiding principles that seem to have gathered consensus:

“A clearer distinction between the minor who has committed an offense and other cases; recourse to freedom deprivation as a last resort; the institution of alternative penal solutions; the guarantee of minimal procedural guidelines (the right to be heard, the right to legal defense, the right to protection of the private sphere, right of appeal, etc.); and a new notion of holding the minor responsible (proportionality of the measure); a new notion of family, more bearing the mark of individual protection of its members than of parental authority, emphasis placed on prevention.”<sup>13</sup>

Beyond national particularities, the West seems to have shifted from a perception of the child as guilty to a perception of the child as victim, removing the youth's guilt better to place it on the family, which thus becomes vested with a more complex role: at once a factor of deviance but also a place to implement prevention policies. While the state played a major role in child welfare throughout most of the 20<sup>th</sup> century, beginning in the 1970s, and especially with the crisis of the welfare state, NGOs have taken on a new role in managing wayward youths.

## Actors of Reform

In Russia, the idea of juvenile justice has been championed by non-governmental organizations, in particular No to Alcoholism and Drug Addiction (NAN), whose director, toxicologist Oleg Zykov, has called for the appointment of specialized judges and emphasized the crucial role of social services, especially social workers liable to assist judges. Convinced that prevention is key, Oleg Zykov has sat on a number of ministerial and government commissions as well as the Civic Chamber, of which he has been a council member since June 18, 2012. He is also on the Government Commission for Minors Affairs and the Protection of their Rights. Among other noteworthy backers of the reform are jurist Nodar Khananashvili and chairman of The Right of the Child organization, Boris Altshuler, both of whom are also members of the Civic Chamber.

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<sup>13</sup> *Ibid.* for both quotes, pp. 384, 395-396.



The Center for Judicial and Legal Reform (Sudebno-pravovaya reforma) and the Center for Criminal Justice Reform (Tsentri sodeistviya ugolovnogo pravosudiya) are also working actively to institute a less retributive and more case-based juvenile justice system, more closely correlated with both the social services and organizations working with children at risk. Founded in 2001 in Saint Petersburg by Father Alexander Stepanov, the Saint-Basil-the-Great social adaptation center handles re-integration of former prisoners and youths who have been given conditional sentences. He opened the first rehabilitation center for juvenile delinquents in Russia in 2011 in the suburbs of Saint Petersburg. In March 2009, the legal psychology department at the Moscow State University of Psychology and Education (Moskovskii gorodskoi psikhologicheskii institut-MGPPU) also set up an advanced research center on issues of juvenile restorative justice.<sup>14</sup> According to observers, differences of opinion among these various actors, however, are an obstacle to lobbying.<sup>15</sup>

The idea of a juvenile justice system is nevertheless progressing under pressure and help from the international community. The UN, via the UNPD, Unicef and Unesco, Caritas, the United Kingdom's Department for International Development and the NGO Human Rights Watch, among others, began working in Russia in the mid-2000s to accelerate development of such a system. The Council of Europe and the European Union also devoted several aid programs to children at risk during the first decade of the 2000s ("Russia North-West, 2004-2005," "Russia 8, 2005-2006," "Enforcing the Rights of the Child and Re-integrating Children at Risk, Russia 2007-2008"). In 2004, an ambitious program spanning several years concerning youths at risk in six regions of Russia (YAR-Project) was undertaken by the Canadian International Development Agency and followed up by the Association of Universities and Colleges of Canada.<sup>16</sup> The Tacis IBPP (Institution Building Partnership Program, late 2000s), funded by the European Union, experiments new methods of administering justice for youths at risk in several Russian regions. While cooperation agreements had already been signed in 1998 between the Finnish and Russian Justice Ministries, a new program for 2013-2014, agreed in November 2012, makes provisions for expert meetings on family issues that both countries are grappling with. Within the context of Russia's Year of Germany in 2012-2013, cooperation between the two countries was further strengthened through the research center of MGPPU's Department of Legal Psychology, and by Rimma Chirkina in particular, on the issue of assistance to juvenile delinquents and family support. Some would like to see Russia look at what goes on in non-Western countries: Oleg Zykov has expressed interest in Japan's experience, where juvenile courts were set up in 1923 and where the number of detainees, especially minors, is the lowest. There is also Kazakhstan, which recently passed a series of laws regarding juvenile affairs. On the other hand, the experience of the United States, which stands out by its very high prison population, is often criticized.

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<sup>14</sup> Laboratoriya yuvenal'nykh tehnologii.

<sup>15</sup> "One of the major problems is that those who are engaged in juvenile justice cannot agree among themselves [...]. Therefore we are not able to create a broad coalition towards the government to promote our ideas" Rustem Maksudov, Director Center for Judicial and Legal Reform, April 2009, cited by U. K. Hakvåg, *Juvenile Justice in the Russian Federation*, Master's Thesis, University of Oslo, Autumn 2009, p. 87.

<sup>16</sup> See the report authored by P. Dutkiewicz, A. Keating, M. Nikoula and E. Shevchenko, *Juvenile Justice in Russia...*, *op. cit.*

Perceptions among Russian political and judicial personnel are changing to varying degrees. The greatest innovations have come at the local level: on initiatives from the governor of Perm Krai and from judges in Rostov Oblast; in Saint Petersburg, the mayor has backed reform, in Moscow the governor did the same.<sup>17</sup> In the regions, ombudsmen for children's rights often serve a very useful purpose even if their scope of action differs considerably.<sup>18</sup> The Presidium of the Council of Judges of the Russian Federation called for the creation of an independent juvenile justice system, and a working group on the subject was formed by decree on August 6, 2009.

## The Post-Soviet Ideological and Institutional Context

The ideological and institutional context in post-Soviet Russia nevertheless constitutes an obstacle to reform. According to essayist Stanislav L'vovskii, in the atmosphere of fear sustained by the media, children are represented in two contrasting lights. Children are vulnerable beings that must be shielded from the evil influences of the West, and even, in some cases, protected from their families. But young delinquents are also perceived as monsters, devoid of any conscience of good and evil, against which coercive action must be taken. This contradictory image makes any reform of juvenile justice a delicate enterprise, according to L'vovskii.<sup>19</sup>

Should children be considered as guilty or as victims? What causes juvenile delinquency? The answers to these questions are varied. Nikolai K. Shilov, judge in Saint Petersburg, thus declares,

“Today I am convinced society is responsible for the unfortunate condition of these children. We can no longer think that inflicting punishment is enough for an adolescent to correct his behavior. We absolutely must design rehabilitation programs to help these youths stand upright and become full-fledged members of society.”<sup>20</sup>

Others, who feel nostalgic for the Soviet era, believe that delinquency is above all the result of poor education and the lack of a healthy ideology in which youths should be brought up, partly a consequence of the freer moral climate resulting from the opening up of borders.

Stanislav L'vovskii identifies three main avenues in state policy toward juvenile justice. In the first, the aim is to bring Russian legislation in conformity with Western models, in the context of a great wave of modernization backed by a segment of the ruling elites who are acting out of pragmatism, championing the cause of children against a backdrop of serious demographic decline. The second is to preserve the advantages acquired by all those who at the core of the

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<sup>17</sup> U. K. Hakvåg, *Juvenile Justice in the Russian Federation*, *op. cit.*, p. 87.

<sup>18</sup> A. Abela, G. Berlioz, J. Holm-Hansen and V. Tchernega, *Children at Risk in Russia: Problems and Solutions*, Strasbourg, The Council of Europe, November 10, 2008, p. 10. This document analyzes the impact of the program “Enforcing the Rights of the Child and Re-Integrating Children at Risk into Society, Russia 2007-2008.”

<sup>19</sup> S. L'vovskii, “Pod znakom yuvenal'noj yustitsii,” <http://www.polit.ru/author/297452> (accessed May 20, 2014).

<sup>20</sup> Cited by A. Plessz Glatz, “RUSSIE: premiers signes de changement dans la justice des mineurs,” 2003, <http://www.cide.ch/Prisons%20Saint-Pétersbourg.htm> (accessed May 20, 2014).

state benefit from the system inherited from the Soviet period. The child welfare sector, one of the most corrupt, is indeed a major source of resources for many civil servants. According to Boris Altshuler, between 25,000 and 30,000 orphans live in orphanages and other child welfare institutions.<sup>21</sup> If these were to disappear, the whole edifice—the institutions as well as the wardship and guardianship agencies—which receives 4 billion dollars annually in state subsidies and what he calls the “Rossirotprom” (the Russian orphan industry), would collapse.<sup>22</sup> The third major trend identified by L’vovskii has to do with propaganda: by emphasizing the vulnerable child, the state seeks to tighten the system of repression. Could the United States serve as a model in this case? This observer suggests another reason:

“Russian society for the past twenty years has been facing a large number of problems it has no solution for. The only answer to these issues, constantly commented in public (and not only periodically), is the greatest possible increase in the level of state violence.”

## EVOLVING LEGISLATION

### Limited Changes

Despite some evolution, the approach to juvenile justice has remained basically retributive, even if it seems to show greater respect for children’s rights. Specific provisions concerning minors were introduced in the modifications made in 1994 to the 1960 Penal Code of the Russian Soviet Federative Socialist Republic (RSFSR) as well as the 1996 Penal Code.

“According to the 1996 Penal Code, minors of 16 years of age at the time of the offense are criminally responsible for all types of offenses, but for certain types of offenses, minors can be held criminally responsible as early as the age of 14, particularly for homicide, serious premeditated assault, kidnapping, rape, robbery with violence, carjacking, etc. Not all sentences are applicable to minors, as it is legally guaranteed that they cannot be sentenced to life imprisonment or to death.”<sup>23</sup>

The Criminal Procedure Code that came into effect in July 2002 provides for more humane procedures for dealing with minors: theft in particular is no longer considered a criminal offense but a misdemeanor and no longer leads to imprisonment.<sup>24</sup> The number of minors tried in

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<sup>21</sup> The institutions have various statuses: orphanages, social rehab centers, family education centers, temporary placement centers for juvenile delinquents, reform colonies for juvenile delinquents.

<sup>22</sup> Cited by R. Orestov, “Yustitsiya dlya detei: est’ li ona v Rossii?” March 20, 2010, [http://www.bbc.co.uk/russian/russia/2010/05/100526\\_juvenile\\_justice.shtml](http://www.bbc.co.uk/russian/russia/2010/05/100526_juvenile_justice.shtml) (accessed May 20, 2014).

<sup>23</sup> S. Hatry and M. Zakharova, “De l’URSS à la Russie...,” *op. cit.*.

<sup>24</sup> An amnesty was declared in June 2002 for all minors sentenced for theft. For years, Russian children had been imprisoned for stealing cans of food in stores.

criminal courts or who received freedom deprivation sentences has thus diminished. There have also been noticeable changes in the behavior of judges trained to try children, who “much more often resort to articles 61 and 64 that allow them to pronounce reduced sentences for mitigating circumstances or suspended sentences.” Similarly, the new Family Code passed in 1995 introduced the right for children to address wardship and guardianship agencies when they feel their rights have been violated.

The federal law “On the Principles of Prevention of Juvenile Neglect and Juvenile Delinquency” passed on June 24, 1999<sup>25</sup> and the July 9, 1998 law “On the Basic Guarantees of the Rights of the Child in the Russian Federation”<sup>26</sup> regulate preventive measures for child neglect and juvenile delinquency and outline the structure, powers and interactions between the relevant agencies and services.

Despite international recommendations, even if since the 1960 RSFSR Criminal Procedure Code there are judges specialized in charge of juvenile cases in ordinary Russian courts, there are no specialized criminal courts for juveniles. On February 14, 2000, the Plenum of Supreme Court of the Russian Federation handed down a ruling “On Court Practice in Cases Involving Offenses Committed by Juveniles.”<sup>27</sup> Courts are bound not only to respect the Penal Code and the Criminal Procedure Code governing offenses committed by minors, but also to act as much as possible in their best interest, to help uphold their rights and prevent recidivism. On February 15, 2002, the Duma passed in its first reading the proposed amendment<sup>28</sup> to the Federal Constitutional Law “On the Judicial System of the Russian Federation,” “declaring juvenile courts a component of the judicial system of the Russian Federation.” But the project came to naught.

On June 1, 2012, President Putin signed the National Action Strategy in the Interest of Children for 2012-2017, one section of which deals with the issue of juvenile justice.<sup>29</sup> Although according to the experts it was adopted hastily, it contains some innovative points. Following the recommendations of MGPPU’s Department of Legal Psychology, it emphasizes the restorative approach as well as educational measures,<sup>30</sup> and makes mediation between victim and delinquent the centerpiece of the system. Its impact may nevertheless remain limited.

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<sup>25</sup> “Ob osnovakh sistemy profilaktiki beznadzornosti i pravonarushenii nesovershennoletnikh” (NO.120-FZ ot 24.06.1999 g.), [http://www.juvenilejustice.ru/documents/d/doc1\\_1/fzprof](http://www.juvenilejustice.ru/documents/d/doc1_1/fzprof) (accessed May 20, 2014).

<sup>26</sup> “Ob osnovnykh garantiyakh prav rebenka v RF” (NO.124-FZ ot 09.07.1998 g.), [http://www.juvenilejustice.ru/documents/d/doc1\\_1/124](http://www.juvenilejustice.ru/documents/d/doc1_1/124) (accessed May 20, 2014).

<sup>27</sup> “O sudebnoi praktike po delam o prestupleniyakh nesovershennoletnikh” (NO.7), <http://www.juvenilejustice.ru/documents/doc2/post/postpl> (accessed May 20, 2014).

<sup>28</sup> The draft amendment was co-authored by Alexei Avtonomov and Nodar Khananashvili.

<sup>29</sup> See in particular chapter six, *Sozdanie sistemy zashchity i obespecheniya prav i interesov detei i druzhestvennogo k rebenku pravosudiya*.

<sup>30</sup> L. M. Karnozova, “Novyi orientir v strategii reagirovaniya na pravonarusheniya nesovershennoletnikh,” *Psikhologicheskaya nauka i obrazovanie*, no. 3, 2013, [http://www.psyedu.ru/files/articles/psyedu\\_ru\\_2013\\_3\\_3415.pdf](http://www.psyedu.ru/files/articles/psyedu_ru_2013_3_3415.pdf) (accessed May 20, 2014).

## Regional Experiments

Several regions have introduced elements of rehabilitative and restorative justice in the Russian judicial system on initiatives from governors, mayors or local court judges. Pilot programs have been developed in conjunction with the UNPD since 1999 in Rostov and Saratov Oblasts and in Saint Petersburg. In 2008, juvenile justice reform was introduced more or less extensively in Rostov, Irkutsk, Leningrad, Briansk, Lipetsk, Kamchatka, Vladimir, Ivanov, Saratov, Saratov and Volgograd Oblasts, in Perm Krai, in Khakassia and Karelia Republics, the Jewish Autonomous Oblast and the cities of Saint Petersburg and Moscow. And, in 2011, Oleg Zykov announced that under pressure from the Civic Chamber, specialized judicial procedures had been set up for minors and that in some regions the crime rate had been divided in half, even by three,<sup>31</sup> and the recidivism rate had also been sharply reduced.

Rostov Oblast, which was the first to establish juvenile courts, opted for the rehabilitative justice model, whereas Perm Krai, where the juvenile crime rate is particularly high, the reform implemented in 2002 went in the direction of restorative justice.

“In Russia, however, the difference between rehabilitative and restorative juvenile justice is not as dramatic. Both approaches seek realization within the court system, based on the same core elements, i.e. juvenile, social worker and judge. The restorative practice of involving family and local society in the mediation program is not much used. [...] The emphasis on the needs of the victim, so characteristic of restorative justice in its purest form, is faded in the Russian version.”<sup>32</sup>

## Lingering Issues

Juvenile justice still has a number of shortcomings. The deprivation of freedom rationale remains widespread, and many children continue to serve sentences in educational colonies for juvenile delinquents away from their families. As the number of such colonies is slated to decrease, their detention conditions are bound to deteriorate.

The multiplication of local juvenile structures requires federal standards, and for the Supreme Court, the experience accumulated in the regions has created conditions conducive to instituting an effective federal juvenile justice system. Yet, as the Duma remains opposed to such measures, the gap is growing between regional innovations and decisions made at the federal level.

The plethora of institutional actors, and in particular the number of government bodies responsible for juvenile justice, undermines child welfare policy. The Ministry of Justice does not necessarily pursue the same goals as the Ministries of Education, Health, the Interior or

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<sup>31</sup> “O detyah zabyvat’ nel’zya,” November 18, 2011, <http://opr.f.ru/press/news/2011/newsitem/15966> (accessed May 20, 2014).

<sup>32</sup> U. K. Hakvåg, *Juvenile Justice in the Russian Federation*, op. cit., p. 70.

Social Protection; nor do they share the same professional idiom. The lack of coordination among government bodies is further aggravated by the compartmentalization of new funding principles. In its 2008 report on children at risk in Russia, the Council of Europe identified a number of difficulties that remain unresolved today:

“– Continued tension between the central executive—which endeavors to differentiate between care for young offenders (for which the Ministry of the Interior is responsible) and care for “social orphans” (which falls within the remit of the Ministry of Health and Social Development and the Ministry of Education) and those responsible for dealing with the situation on the ground. It is often difficult to disentangle the causes and treat young offenders and social orphans differently, since the fact of being on the street inevitably prompts children to commit offences in order to survive;

– The parallel existence of youth affairs commissions<sup>33</sup> and the supervisory authorities historically affiliated to the education authorities, which decide on the legal status of children in difficulty. This parallel system has numerous drawbacks in terms of efficiency. Moreover, the fact that the supervisory authorities are [sic] attached to the Ministry of Education leads to tensions with other government departments;

– The fact that different government departments are responsible for children’s institutions: the “infant centers” or “nurseries” catering for children aged 0-3 are attached to the health authorities, orphanages are the responsibility of the education authorities and the social services are in charge of temporary hostels, while responsibility for residential institutions for children with disabilities is shared by the social services and the education authorities. At different stages of the lives, children are therefore handed from one government department to another, and suffer the consequences not only of a change of staff but also of differences in approach and working methods.”<sup>34</sup>

According to the Council of Europe experts cited above:

The main problem today is no longer, as was the case recently, a lack of funds—indeed, investment in “families and children” is increasing—or the lack of a political will at the highest levels of government, but how to make this investment truly effective in the best interests of the children concerned.”<sup>35</sup>

The question of methods is precisely what the liveliest debates revolve around today in Russia.

Advocates of juvenile justice reform stress the family’s central role and the need to safeguard it. According to Boris Altshuler, there is a need to “create a system that can protect children living in a family without destroying the family itself, which implies also working with adults.”<sup>36</sup> He maintains that conflicts between children and their parents should not

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<sup>33</sup> Youth affairs commissions exist at the federal, regional and local levels and coordinate the child welfare actions of the various political and social institutions.

<sup>34</sup> A. Abela, G. Berlioz, J. Holm-Hansen and V. Tchernega, *Children at Risk in Russia...*, *op. cit.*, p. 10.

<sup>35</sup> *Ibid.*, p. 5.

<sup>36</sup> [http://www.bbc.co.uk/russian/russia/2010/05/100526\\_juvenile\\_justice.shtml](http://www.bbc.co.uk/russian/russia/2010/05/100526_juvenile_justice.shtml) (accessed May 20, 2014).



be settled solely by the courts, but also by social workers, psychologists and in some cases physicians. For Boris Altshuler, the Finnish system seems to be the most appropriate model, even if the outcomes of several Finnish-Russian cases have been sharply criticized in the media.<sup>37</sup>

#### • Probationary Measures for Minors

In Russia, the inspectorates overseeing the enforcement of sentences have the authority to pass alternative sentences to incarceration, particularly penal work assignments for which they oversee completion. But unlike probation services in other countries, they are not authorized to submit reports to the prosecutor prior to sentencing with a view toward better individualization of the sentence, particularly when the court must determine coercive measures. Nor do they initiate conciliation procedures between victim and accused, design correctional programs, have power to define measures best adapted to the interests of minors and especially, cannot provide support to them in the course of their social integration.<sup>38</sup> Although Rostov and Arkhangelsk Oblasts have set up experimental probationary services, these remain fairly undeveloped. It should also be noted that the Conception of the Development of a Sentence Enforcement System defined on October 14, 2010, in effect until 2020,<sup>39</sup> aims to improve the conditions in which the sentence enforcement inspectorates work and gives their task a social orientation. The program also includes preparation for readaptation after release from prison. But sharp personnel reductions in the inspectorates hamper implementation of these measures.<sup>40</sup>

#### • For a Reform of the Commissions on Minors' Affairs

Voices are calling for reform of the Commissions on Minors' Affairs and the Protection of their Rights in Russia in the context of the development of restorative justice. A new institutional framework to facilitate mediation procedures is planned.<sup>41</sup> The commissions could thus promote alternative measures to legal proceedings undertaken by the public prosecutor. Such is already

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<sup>37</sup> A court ruling in Finland, in 2010, thus decided to place in an orphanage a 7-year-old boy born to a Finnish father and a Russian mother. The child allegedly claimed his mother beat him and that his parents planned to take him to Russia. In 2009, Rimma Salonen, a Russian mother, was convicted by the Finnish courts after leaving Finland for Russia with her son without the consent of the father from whom she was divorced ([http://www.bbc.co.uk/russian/international/2010/03/100316\\_finland\\_rantala.shtml](http://www.bbc.co.uk/russian/international/2010/03/100316_finland_rantala.shtml), accessed May 20, 2014).

<sup>38</sup> E. L. Voronova, "Sozdanie sluzhby probatsii dlya nesovershennoletnikh v Rossii," <http://www.juvenilejustice.ru/documents/doc3/ss/vr/page5/> (accessed May 20, 2014).

<sup>39</sup> "Kontseptsiya razvitiya ugovovno-ispolnitel'noi sistemy Rossiiskoi Federatsii do 2020 goda," [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_130609/?frame=1](http://www.consultant.ru/document/cons_doc_LAW_130609/?frame=1) (accessed May 20, 2014).

<sup>40</sup> <http://ombudsman-vrn.ru/index.php/2013-03-21-13-40-29/vzaimodeistvie-s-gosudarstvennimi-organami/343-perspektivy-sozdaniya-sluzhby-probatsii-v-rossii> (accessed May 20, 2014).

<sup>41</sup> L. Karnozova, "KDNIZP i mirovye tendentsii razvitiya pravosudiya v otnoshenii nesovershennoletnikh," *Vestnik vosstanovitel'noi yustitsii*, no. 9, 2012, pp. 105-107.



the case for minors under age 14, and even under age 16 in some situations; it should be improved and extended to juveniles who have reached the age of criminal responsibility. Alternative measures could be suggested not only in the event of misdemeanors but also for more serious offenses.

The Plenum of the Supreme Court ruling “On the Judicial Practice of Application of Law Regulating the Specifics of Criminal Responsibility and Punishment of Minors” (February 1, 2011, no. 1) recommends closer relations between the courts and the commissions. To enforce Criminal Procedure Code standards regarding the need to define the living and education conditions of juvenile defendants, the courts are requested to inform the commissions of the places and dates that case files can be examined and if appropriate to take measures to guarantee the presence of representatives. The courts are also encouraged to make greater use of educational sanctions and to reinforce preventive measures.

While all these issues are still outstanding, resistance to juvenile justice reform remains strong within the state apparatus where many believe it is unnecessary, as Russian legislation has long made provisions for minors. Such is the case in particular of Pavel Astakhov,<sup>42</sup> Russian Federation ombudsman for children’s rights since December 2009, who criticizes the American experience “where a child can sue his parents because they didn’t allow him to watch television.”<sup>43</sup> Taking his distance from the principles laid out in the new international conventions, Astakhov, like others, suggests taking time to better assess Russia’s experience in the domain and the population’s expectations. According to him, the institutions exist; the problem is merely to comply with the legislation. According to Viktoria Shmidt, who has done a comparative analysis of child welfare policies in Europe and in Russia:

“[Pavel Astakhov] reproduces the idea that children should depend entirely either on their parents or existing [social-legal] services. The concept of the child as a subject of law is situated outside [his] field of interest. [...] The paternalistic position taken by the ombudsman as much toward the family as toward children is complicated by the fact that he cannot manage to stick to a single strategy of support to families, claiming that it is essential for children to be withdrawn from their families and placed in schools, which he views as the best bodies for overseeing children’s everyday behavior, but that it is equally essential to demand that parents undertake considerable efforts to better oversee their child’s security.”<sup>44</sup>

No Western country combines the two strategies, both of which require considerable financial resources. Shmidt sees in the inability to choose between the various possible approaches one of the reasons that Russia finds itself in such a conundrum.

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<sup>42</sup> He replaced Alexei Golovan, the first ombudsman in charge of children’s rights for the city of Moscow (February 6, 2002- September 1, 2009) and who occupied the post of children’s rights ombudsman for the Russian Federation only from September 1 to December 26, 2009. His replacement by Pavel Astakhov raised an uproar.

<sup>43</sup> R. Orestov, “Yustitsiya dlya detej: est’ li ona v Rossii?” [http://www.bbc.co.uk/russian/russia/2010/05/100526\\_juvenile\\_justice.shtml?print](http://www.bbc.co.uk/russian/russia/2010/05/100526_juvenile_justice.shtml?print) (accessed May 20, 2014).

<sup>44</sup> V. R. Shmidt, “Kak zashchishchat’ detei,” 26 October 2012, <http://polit.ru/article/2012/10/26/children/> (accessed May 20, 2014).

In the face of state negligence, some, such as Oleg Zykov, are campaigning for greater interaction between civil society organizations and the administration, convinced that a well-designed social policy must be driven from below, federal bureaucrats being too remote from the reality on the ground:

"I come to the conclusion that people at the local level are more progressive than those in power. They live real lives, interact with real people. Senior civil servants are overcome by other thoughts and other ideas. It's not that they are bad; they simply have different system for survival. A bureaucrat has to meet his superior's expectations in order not to be dismissed. He must not offend the bureaucrat working alongside him, and only then can he look down, because down below, no one has any influence over his survival."<sup>45</sup>

## Draft Legislation Related to Juvenile Justice Reform

Draft legislation (*yuvenal'nye zakonoproekty*) that does not pertain directly to juvenile justice but associated with it by the majority of the public has been examined in recent years. Among such draft bills are those regarding social guardianship and the social control of orphans.

### • Social guardianship

In 2011, there were about 60,000 cases of parental rights being withdrawn and over 80 % of the children who were placed in educational institutions (*detdom, internat*) still had their biological parents.<sup>46</sup> The bill on social guardianship (*sotsial'nyi patronat*) was drafted with a view to reducing this number. Ten Russian regions had in fact already experimented with prevention measures.

Approved in its first reading on September 25, 2012 after lengthy preparation, this legislation<sup>47</sup> was to facilitate the work of wardship and guardianship agencies with children in difficulty who continue to live with their families and develop preventive measures for abandoned children. It would have brought amendments to the Civil Code, the law "On the Principles of the System of Prevention of Child Abandonment and Juvenile Delinquency," the Family Code (1995)<sup>48</sup> and the

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<sup>45</sup> "O sotsial'noi politike," *Tribuna*, 7 March 2013, <http://www.oprf.ru/blog/?id=1146> (accessed May 20, 2014).

<sup>46</sup> For an analysis of the situation of "social orphans," see L. Trebosc, "Les orphelins sociaux en Russie, grands perdants de la transition," *Regard sur l'Est*, January 15, 2006, [http://www.regard-est.com/home/breve\\_contenu.php?id=559](http://www.regard-est.com/home/breve_contenu.php?id=559) (accessed May 20, 2014).

<sup>47</sup> NO.42197-6 FZ, "O vnesenii izmenenii v otdel'nye zakonodatel'nye akty Rossiiskoi Federatsii po voprosam osushchestvleniya sotsial'nogo patronata i deyatelnosti organov opeki i popechitel'stva."

<sup>48</sup> Elena Mizulina, head of the Duma committee for Family, Women and Children, feels that it is outdated and that it was drafted less in the interest of families and more against her.

law “On Wardship and Guardianship” (2009).<sup>49</sup> This is how Elena Mizulina, head of the Committee on Family, Women and Children in the Duma, described the aims of the bill in October 2012:

“Prior to passage of the law on wardship and guardianship, in the regions where social guardianship has been set up, it functioned as an institution that aimed to prevent social orphans. A specialist, generally a teacher or a psychologist, was attached to a family in difficulty with the parents agreement and via a contract. The person provided the family with essential aid, helping the child with homework for instance or taking them to school and picking them up. And the child was not taken away from his family. A lot of volunteers, in particular belonging to non-profit organizations, worked in the framework of this wardship. With the 2009 law on wardship and guardianship, non-profit organizations are no longer involved. [...] The proposed law would partly help to bring back social guardianship by obliging wardship and guardianship agencies to organize aid to families with children in difficulty.”<sup>50</sup>

This form of social guardianship would amount to a sort of individualized prevention handled by wardship and guardianship bodies. In that it meant interference in family life, it would only be possible with the parents’ consent and would have to take into account the children’s viewpoint when they were 10 and older. In such a system, a child would not systematically be placed in a juvenile institution, but instead, whenever possible, a joint effort involving judges, psychologists, doctors and teachers would be undertaken together with the children and their parents.

For the architects of this bill, the aim was to better guarantee a child’s right to live and grow up in a family and to prevent the loss of parental guardianship in difficult situations. It provided for aid to families in the event that parents prevented their children from having a “normal” education and development.

The social guardianship project was criticized by the same people who advocated setting up prevention and assistance measures to families in difficulty. The criteria for awarding aid were considered too vague, which would risk leaving wardship and guardianship bodies with a free hand to act arbitrarily; others warned against the possibility it opened up of leaving the state agencies to interfere in the work of educational institutions.<sup>51</sup> It was finally rejected on January 24, 2014. In December 2013, human rights ombudsman Vladimir Lukin declared it needless. As for Yelena Mizulina, who had strongly backed it,<sup>52</sup> she claimed in an article

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<sup>49</sup> “Gosduma odobrila ispravlenyi variant zakonoproekta ob opeke,” <http://demoscope.ru/weekly/2008/0329/gazeta01.php> (accessed May 20, 2014). According to Elena Mizulina, wardship and protection agencies were becoming repressive bodies with regard to the family/bodies.

<sup>50</sup> “Yuvenal’naya yustitsiya ne sootvetstvet rossiiskomu mentalitetu”. Interv’yu s glavoi dumskogo komiteta po voprosam sem’i, zhenshchin i detei Elenoi Mizulinoi,” October 8, 2012, <http://www.gazeta.ru/social/2012/10/08/4804509.shtml> (accessed May 20, 2014). It should be noted that she does not consider the draft legislation to come under “juvenile justice,” whereas opponents to the project have criticized it as such.

<sup>51</sup> <http://komissy.ru/main/?p=2039> (accessed May 20, 2014).

<sup>52</sup> “I’m convinced that the people who petitioned against this document have not read it and that they allowed themselves to be guided by other people’s conclusions and opinions. Who is behind it? We don’t know for sure, we can only guess. Try to answer the question, “Who profits from social orphanage, arbitrary interference in family lives, state concern [*zabota*] for the family that is limited to taking their children away from them, the state’s refusal to attend to helping and supporting families with children and creating a favorable environment for them? [...] I think that in this specific case it is merely a political order, a dishonest political fight in which the feelings of believers, of the Orthodox Christians are manipulated. And that is indecent.” “Yuvenal’naya yustitsiya ne sootvetstvet rossiiskomu mentalitetu...,” interview cited.

published in Inter-Tass posted on her website,<sup>53</sup> that the project her Committee had worked so hard on “was no longer a current concern” since several laws aiming to improve the situation of orphans had been passed. These laws encroached on the social guardianship project—in particular the federal law “About bases of social servicing of citizens in the Russian Federation” (No. 442-FZ, 28 December 2013) that made it possible to award various forms of aid to orphans. And thus a debate that had inflamed public opinion for two years came to a close.

- **Social control of orphans<sup>54</sup>**

Despite the high number of deaths among adopted children, legal proceedings over such deaths are rare. The Civic Chamber thus suggested creating a service for the social control of orphanages and wards placed in foster families by properly trained specialists from civil society, and functioning according to principles similar to the public control commissions for detention facilities. The bill made provisions for periodic surveillance of adopted children and monitoring of the allowances granted to families for child maintenance. Family support aimed to reduce the number of children placed in orphanages.

Several senior bureaucrats, such as the vice-chairman of the Investigative Committee of Russia, Alexander Fedorov, expressed their hostility toward this bill, considering that such control would indicate that the state was incapable of fully guaranteeing respect for children’s rights and would inevitably lead to further abuse, both from observers from civil society as from wardship bodies.

Other questions were also raised. For instance, the new law on education passed in December 2012 withdrew the right of orphans to enter institutions of higher education without passing a competitive exam. Aside from this problem—on the way to being resolved—,<sup>55</sup> Aleksei Golovan suggested registering orphans on the list of citizens qualifying for free legal aid. Lastly, the law does not specify the timeframe in which a youth leaving an orphanage or educational institution can obtain housing, although this would help reduce the number of cases when youths leaving these institutions wind up on the street.

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<sup>53</sup> “24.01.2014. Gosduma otklonila vo vtorom chtenii zakonoproekt o sotspatronte iz-za utraty aktual’nosti,” <http://elenamizulina.ru/news> (accessed May 20, 2014).

<sup>54</sup> “Ob obshchestvennom kontrole za obespecheniem prav detei –sirot i detei, ostavshihsy bez popecheniya roditelei,” [http://pravo.gov.ru/proxy/ips/?doc\\_itself=&backlink=1&&nd=102306619&&page=1&rdk=0](http://pravo.gov.ru/proxy/ips/?doc_itself=&backlink=1&&nd=102306619&&page=1&rdk=0). See N. Bulanova, “Sledit’ za sud’boi detei-sirot budut volonter,” *Novye Izvestiya*, March 6, 2013, <http://demoscope.ru/weekly/2013/0545/gazeta08.php> (accessed May 20, 2014).

<sup>55</sup> “Putin podpisal zakon, vozvrashchayushchii sirotam l’goty pri postuplenii v vuzy,” February 4, 2014, <http://www.interfax.ru/russia/355728> (accessed May 20, 2014).

## **A MULTIFACETED MOBILIZATION AGAINST JUVENILE JUSTICE REFORM: TOWARD A CONFLICT OF CIVILIZATIONS**

If the draft legislation mentioned above never became law, it is also and especially because mobilization against juvenile justice gathered momentum with support from the regime, which has exploited some of its issues to patriotic ends. Juvenile justice reform per se interests people less and less. Political figures who had come out in favor of introducing a new system voted against it, picking up and diverting the debate to more political and ideological than legal ends, using it to defend the place of traditional values in Russian society. As Lev Levinson, an expert at the Human Rights Institute, notes,

“We know who is in the front line of opposition to juvenile justice and who remains silent. I can say that the chair of the State Duma Committee for the Family, Women and Children, Elena Mizulina, has done nothing to further the issue. Yet, she was one of the authors of the bill to introduce juvenile courts. And among those who drafted the legislation on juvenile justice that was passed in its first reading, there is the well-known Orthodox Duma member Alexander Chuev. At first he was in favor of the bill. But then he found another platform to stir up passions and fish in troubled waters.”<sup>56</sup>

Debates over juvenile justice reform, fueled by considerable media hype, have provided the opportunity to define the contours of a civilizational conflict and reaffirm Russia’s specificity. While the various bills, which are highly technical and difficult to understand, left the population totally indifferent, anti-juvenile justice mobilization along with the media’s construction of the issue finally caught their interest.<sup>57</sup> The Church in turn has taken advantage of the issue to reassert its place in the public arena.

### **The Origin and Expansion of Social Mobilization**

There have been countless discussions in the blogosphere, petitions and other forms of mobilization against juvenile justice, but they hardly have anything to do with the subject they purport to rail against. Even though this complex reform aims primarily to help children in

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<sup>56</sup> L. Levinson, “Ne nado demonizovat’ yuvenal’nyuy yustitsiyu... Odnim iz avtorov sootvetstvuyushchego zakona byl pravoslavnyi deputat Aleksandr Chuev,” <http://www.portal-credo.ru/site/print.php?act=authority&id=1433>(accessed May 20, 2014).

<sup>57</sup> A similar phenomenon occurred with the Outreau case in France. Outreau refers to trials involving alleged sexual abuse against children in the north of France (February 22, 2001- December 1, 2005) that revealed serious dysfunctions in the French judicial system as well as the social actors. The courts, on the basis of children’s testimonies and denunciations by the accused, at first found some twenty children to have been victims of rape, sexual abuse and corruption of minors. Seventeen people were initially found guilty. Thirteen of them were finally acquitted and only four children found victims. There were a number of errors in the judicial procedure, and the media, child protection organizations and the inexperienced investigating magistrate Burgaud all had an influence on public opinion. See C. Besnier and D. Salas, “La crise d’Outreau: de l’emprise de l’émotion à l’ambiguïté de la réforme,” *Droit et cultures*, 55 (1), 2008, pp. 87-102.

difficulty, the large majority of the Russian population associates it with “all the evils coming from the international community, their own government, society and the various services, that might threaten children and their families.”<sup>58</sup>

According to journalist Mikhail Agafonov, the author of a meticulous study of the evolutions in the mobilization against juvenile justice, it all started in 2006 with the publication of an article by Irina Medvedeva and Tatyana Shishova on the Sretenski Monastery’s web portal, pravoslavie.ru, headed by Tikhon Shevkunov, Vladimir Putin’s spiritual guide. In this article, titled “The Trojan Horse of Juvenile Justice,”<sup>59</sup> the authors claim that juvenile justice reform, which they identify with Duma member Ekaterina Lakhova,<sup>60</sup> Oleg Zykov and author Maria Arbatova, signaled the “destruction of the family, the severing of ties between parents and children and social relations, and the destruction of the entire Russian social structure,” and that such destruction could only lead to “the construction of a unified world-state with an ideology made up of occultism and Satanism.” They condemned all at once children’s education corrupted by movies and the media, drug propaganda and gambling, and were concerned about children being turned into Pavlik Morozovs<sup>61</sup> who accuse their parents of mistreatment.<sup>62</sup> The article rode on a wave of moralizing traditionalism tinged with Soviet nostalgia, anti-liberalism and virulent opposition to globalization that had already been perceptible for several years. It should be pointed out that the theme of Satanistic world government, which emerged out of very marginal Orthodox circles in the 1990s, gained an audience within the Orthodox community in the early 2000s, particularly owing to the controversy over taxpayer registration numbers and other registration numbers.<sup>63</sup>

One particular event would amplify the controversy: the meeting of Tatyana Shishova and Irina Medvedeva with actress Natalia Zakharova, deprived of her parental rights in France, severe criticism of the French juvenile courts blending with the fear that the same system would come to Russia. On January 31, 2008, Tatyana Shishova published an interview with the actress entitled, “Juvenile Justice or the Tyranny of Juvenile Justice,”<sup>64</sup> in which she identified a new peril: the civil servant abusing his power. The actress on the other hand traveled all over Russia to talk about her troubles with the French courts. The same thing occurred with a Finnish mother who experienced a similar situation. A documentary film, *Yuvenal’naya Yustitsiya. Stena* (“Juvenile Justice. The Wall”), was made on the subject in 2009.

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<sup>58</sup> M. Agafonov, “Skol’ko zarekalsya govorit’ na lyudyakh – vse ne v prok,” February 11, 2013, <http://alterfrendlenta.livejournal.com/335925.html> (accessed May 20, 2014).

<sup>59</sup> “Troyanskii kon’ yuvenal’noi yustitsii,” October 26, 27 and 30, 2006, <http://www.pravoslavie.ru/jurnal/061026200349.htm>; <http://www.pravoslavie.ru/jurnal/061027111945.htm>; <http://www.pravoslavie.ru/jurnal/061030103513.htm> (accessed May 20, 2014)

<sup>60</sup> The same parties had already criticized Ekaterina Lakhova for her defense of family planning.

<sup>61</sup> Hero of Stalin era propaganda who is said to have reported his father for anti-Soviet activity.

<sup>62</sup> According to one person I spoke to, this article was also and above all the result of the authors’ personal quarrel with Oleg Zykov (interview in Moscow, January 2013).

<sup>63</sup> See K. Rousselet, “La querelle des matricules ou la grammaire complexe des patriotes religieux en Russie,” in Ariane Zambiras (ed.), *Dieu et César, larrons en foire*, Karthala, 2014.

<sup>64</sup> Given the context, I believe this is an apt translation for “Yuvenal’naya yustitsiya ili yuvenal’naya diktatura.” The interview was published on pravoslavie.ru (<http://www.pravoslavie.ru/guest/4787.htm>, accessed May 20, 2014).



The controversy was ratcheted up with the problem of how orphans and adopted children were treated, cases of mistreatment by their adoptive parents leading to their being withdrawn by the state wardship services. Mikhail Agafonov mentions several cases that have hit the press since 2007. More generally speaking, the issue revealed failings of the Church. That same year 2007, the government decided to shut down an orphanage run by the Russian Orthodox Church that did not meet current health regulations; under pressure from the Orthodox community, the institution finally remained open. In Fall 2009, a child ran away from the Bogolyubski monastery near Moscow, complaining that she had suffered beatings there, and sought shelter in an orphanage started by Oleg Zykov. Mistreatment was not proven, but the incident heightened tensions surrounding juvenile justice reform and one of its advocates, and brought into the controversy figures from ultra-Orthodox currents, such as the monastery's spiritual guide, Archimandrite Petr Kucher, and his disciples. This very politically active group radicalized opposition to liberal trends in the country. They belong to that nationalist organization Narodny Sobor which, in 2003, vandalized the "Beware, Religion!" exhibition presented at the Sakharov Museum,<sup>65</sup> on grounds of "blasphemy" and, in 2007, when the same museum hosted another exhibit, "Forbidden Art," called for charges to be filed against its director, Yuri Samodurov, and the curator of the exhibition, Andrei Erofeev.<sup>66</sup> This same organization helped to create a scandal out of the Pussy Riot performance in the Cathedral of Christ the Savior in 2012.

Gradually, as Mikhail Agafonov points out, the Orthodox Church hierarchy would position itself with respect to juvenile justice reform: Vsevolod Chaplin, chair of the Department for Church-Society Relations at the Moscow Patriarchate, has been seen in opposition rallies; in July 2009, Patriarch Kirill asked United Russia Duma member Andrei Issayev not to introduce juvenile justice in Russia and loudly claims defense of the family. Church representatives intervene in the Civic Chamber and in regional consultative councils as well as in the media.<sup>67</sup> These various interventions along with other incidents could explain the letter Oleg Zykov wrote to the Patriarch in June 2010 to remind him of the true meaning of the reform.

The Orthodox community was soon joined by new movements via the social media, such as the pro-life group SUD and the "meta-Satanist" Fritz Morgan:

"Thus the anti-YuYus<sup>68</sup> have made a triumphant entrance in the blogosphere, bringing in not only Orthodox believers and nationalists, but also representatives of those fighting against vaccinations, champions of eco-life, pagan groups, informal associations and those who fear the state's evil eye over what goes on in their not-quite-conventional families."<sup>69</sup>

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<sup>65</sup> The ensuing trial, instead of sentencing the troublemakers, sentenced the museum director, the museum's artistic director and three artists, charged with inciting hatred and publicly offending national and religious dignity, article 282 of the Russian Federation Penal Code. The museum director was heavily fined.

<sup>66</sup> Both were found guilty.

<sup>67</sup> For instance, on October 30, 2012, ombudsman Pavel Astakhov asked the priest hosting the television program he was invited to for his opinion on what reforms were needed.

<sup>68</sup> Those who are against juvenile justice (*yuvenal'naya yustitsiya*).

<sup>69</sup> M. Agafonov, "Skol'ko zarekalsia govorit' na lyudyakh...," *op. cit.*.



Here again, like in the dispute over registration numbers mentioned above, is the fear of government control, a fear often inspired by the Soviet experience, about which many of them are nevertheless nostalgic, and sometimes related to a largely globalized alternative lifestyle.

Given the success of the mobilization, political movements ran away with this promising theme. Such was the case of the communist movement led by Sergei Kurginyan, *Sut' Vremeni* ("Essence of Time"), with a strong local foothold, which in 2012 started a petition against what he called juvenile justice but which more precisely targeted the law on social guardianship. Rather amusing stories have circulated about how he got his 140,000 signatures:

"According to one of Sergei Kurginyan's campaign organizers, signatures were collected during wedding receptions. How can you expect a man, glass of wine in hand, to understand what it's all about? You ask him, "Do you want the state to interfere in people's private lives and take children away?" Of course he will say no. But if he'd been asked, "Do you think the state should help families in difficulty?" I'm sure the answer would have been yes."<sup>70</sup>

Parents' committees have sprung up all over the country. The first All-Russian Congress of Parents (Roditel'skoe Vserossiiskoe Soprotivlenie) met on February 9, 2013. The goals it set for itself are the defense of traditional family values, opposition to "juvenile justice" and to the destruction of the educational system.

But it would be a mistake to reduce this mobilization solely to its conservative dimension and the action of a handful of nostalgics for the Soviet era. A segment of the liberal intelligentsia is also opposed to juvenile justice reform, of which it does not grasp the real issues either. Arguments advancing the risk of using wardship and guardianship agencies to fight against government opponents have been circulated on the social media, where the reform is presented as the instrument of an authoritarian and repressive policy. Thus it was alleged that guardianship bodies attempted to take custody of her two daughters away from Evguenia Chirikova, leader of the environmental protest in Khimki, and that it took the ombudsman's intervention to stop the process. Similarly, the police placed Galina Dmitrieva's two children in a home before giving them back to her three days later under the pressure of several television programs:<sup>71</sup> The journalist had written an article accusing the management of Avtovaz of driving the company into bankruptcy. In their analyses published by the Carnegie Moscow Center, Maria Mayofis and Ilya Kukulkin see a relationship between, "on one hand, attempts by state wardship and guardianship bodies to withdraw custody of children from parents who are not in a position to provide for them and/or who are known for their opinions of radical opposition, and on the other, the reinforcement of ideological interference by the state in school education and the introduction of religious subjects in school." They criticize the processes on the whole,

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<sup>70</sup> Cited by Aleksei Golovan' in an interview with Maria Bozhovich, "Opeka po signalu," *Vedomosti*, 39 (321), October 12, 2012, <http://www.vedomosti.ru/friday/article/2012/10/12/21601> (accessed May 20, 2014).

<sup>71</sup> Stanislav L'vovskii gives other examples: Lidia Buzanova and Sergei Pchelintsev, leftist activists in Nijni Novgorod, whose three children were taken from them in 2010 on the pretext that they could not provide for them (see the Kollektivnoe deistvie website: <http://www.ikd.ru/node/12577>). A similar scandal broke out in Saint Petersburg. See S. L'vovskii, "Pod znakom yuvenal'noi yustitsii," <http://www.polit.ru/author/297452/> (accessed May 20, 2014).

considering that they reflect a unilateral challenge to the “vertical social contract”<sup>72</sup> that prevailed in the first decade of the 21<sup>st</sup> century: In exchange for a lack of government intrusion in citizens’ private lives, citizens agreed not to take part in politics.<sup>73</sup>

Added to this concern are others, in particular that juvenile justice might become an unbridled economic regulator. An ultraliberal article by Lev Lyubimov, economics professor and deputy academic advisor at the Higher School of Economics, has added fuel to this fear. In reference to unemployment in villages, he in particular claimed,

“Creating jobs in such areas is too expensive and pointless. Those voluntary unemployed [*samobezrabotnye*] [...], “out of principle,” won’t work... It is urgent to remove children from these families of the so-called unemployed and raise them in boarding schools (which will of course have to be built) to instill in them the values of civilized living, give them a well-rounded education and a certain level of vocational training.”<sup>74</sup>

As Mikhail Agafonov points out,

“This is how a conglomerate of ideas and arguments was chaotically constructed for a wide variety of audiences, such that today we see people fighting against juvenile justice from stances that are just as varied: some who dream of a strong state [*gosudarstvenniki*], nationalists, liberals and communists, Orthodox Christians and representatives of other religions, atheists and anti-clericals, people with no intellectual pretensions who are satisfied with statements such as “with YuYu, if you let your child watch a porn flick, the ombudsman will take away custody,” and on the contrary intellectuals whose arguments against juvenile justice are peppered with quotes from Buber and Lacan.”<sup>75</sup>

As many arguments that can explain the results of the survey conducted by the Russian Public Opinion Center VTsIOM on February 2 and 3, 2013,<sup>76</sup> according to which 54 % of respondents believe that a juvenile justice system would do parents more harm than good, 44 % believe that its consequences for children would be rather negative, 71 % of respondents are against giving priority to children’s interests and rights over those of the parents and 60 % believe that children should not be entitled to file a court complaint against their parents. Regarding juvenile justice reform measures, 57 % of respondents declare they are in favor of setting up specialized courts. On the other hand, while 47 % were also in favor of creating social commissions independent from the state in charge of denouncing violations of orphans’ rights, 42 % were against it.

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<sup>72</sup> According to Alexander Auzan’s expression, “Obshchestvennyi dogovor i grazhdanskoe obshchestvo,” January 11, 2005, <http://polit.ru/article/2005/01/11/auzan/> (accessed May 20, 2014).

<sup>73</sup> M. Mayofis and I. Kukulin, “Novoe roditel’stvo i ego politicheskie aspekty,” *Pro et Contra*, Carnegie Moscow Center, January-April 2010, [http://carnegieendowment.org/files/ProEtContra\\_48\\_6-19.pdf](http://carnegieendowment.org/files/ProEtContra_48_6-19.pdf) (accessed May 20, 2014).

<sup>74</sup> “Pravo na bezdel’e,” [http://www.vedomosti.ru/newspaper/article/245506/pravo\\_na\\_bezdele#ixzz14F1HNbtH](http://www.vedomosti.ru/newspaper/article/245506/pravo_na_bezdele#ixzz14F1HNbtH) (accessed May 20, 2014).

<sup>75</sup> M. Agafonov, “Skol’ko zarekalsia govorit’ na lyudyakh...,” *op. cit.*

<sup>76</sup> Cited by RIA Novosti, <http://ria.ru/society/20130208/921872712.html#ixzz2qUp1cpn1> (accessed May 20, 2014). The survey was conducted among 1,600 people in 138 towns in 46 Russian oblasts and republics.

## Behind the Rumor

A huge rumor has spread over the media in the past few years, through a process that in many ways is akin to those that can be observed in the West. Its development was fostered by social organizations with ties at once to the Russian Orthodox Church and the government, powerful and wealthy organizations that occupy the field in terms of defense of the family and child welfare, such as the Saint Andrew Foundation, the National Glory Center and the “Sanctity of Motherhood” program whose board of trustees chairperson is N. V. Yakunina, wife of the president of Russian Railways. But other social actors have also taken part. In July 2012, representatives of cultural and art circles sent an open letter to Vladimir Putin.<sup>77</sup>

Public discourse insists that danger is imminent and points to the West as enemy. It conveys the idea that under a “Western-style” juvenile justice system, children would have not only equal rights but even more rights than their parents. These rumors take root and grow in fertile soil, in a “favorable climate of expectation,” to use the expression coined by sociologist Jean-Marie Charon, specialized in the media, with regard to the Outreau scandal in France:

“By climate of expectation is meant a particular context in which collective fears and dreads are expressed, usually fed by “presaging” events or that make a threat credible. [...] Everyone has the feeling that the events that have just occurred confirm or materialize what up to then was merely a latent threat, a vague concern widely shared by the public.”<sup>78</sup>

This favorable climate of expectation indeed exists in Russia. The rumor that developed around juvenile justice reform reflects a nationalistic retreat out of a fear of anything that comes from the West, which prompts Boris Altshuler to say,

“Actually, I think that if the reform hadn’t been labeled using a word with Latin roots but with simply a Russian word [...], it would not have aroused any discussion or any conflict. The words *yuvenal’naya* and *yustitsiya* scared the “patriots.”<sup>79</sup>

But it also reflects opposition to state dominance in all its forms, a rejection of corrupt bureaucrats and, as Oleg Zykov points out, an overall distrust of the law,

“Most opponents to juvenile justice are not against it but against the idea that you have to obey the law. This one is of no use to them. They have their system of values or traditions—call it what you like—and they say, “stay out of my business with your law and your state!” [...] For many years, in the Soviet period, citizens and the state lied to each other and distrusted each other. [...] Is society ready to live by the law? Does it agree to be governed by the law or is it going to resist the

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<sup>77</sup> “Otkrytoe pis'mo deyatelei nauki i kul'tury prezidentu Rossii, pravitel'stvu, Sovetu Federatsii, Gosudarstvennoi Dume, rossiiskim grazhdanam po povodu ugrozy vvedeniya v nashei strane yuvenal'noi yustitsii,” <http://file-rf.ru/PosComment/1766> (accessed May 20, 2014).

<sup>78</sup> J.-M. Charon, “Le traitement médiatique de l’affaire d’Outreau,” *Droit et cultures*, 55 (1), 2008, pp. 221-239.

<sup>79</sup> The term was introduced in the late 1990s. It should be noted that the term juvenile justice also translates as *pravosudie po delam nesovershshennoletnikh*.

process? [...] Behind all that lie the multiseccular mental problems of our society: legal nihilism, state paternalism [...]. People don't believe we can have fair laws, all the more when they touch on what is most private: family relations."<sup>80</sup>

Confusion has become an important element of the discourse, fostered by the overlapping of the various bills under discussion. While some may purposely confuse matters to better mobilize public opinion, the complexity of the problems involved has made their task easier. Journalists, due to a lack of competence, have been the first to mix things up. As in other mobilization efforts,<sup>81</sup> emotion is central: It creates new categories, such as that of children taken away from their family. Thus every family perceives itself as a potential victim, and as elsewhere, "sub-argumentative convictions [are] even more influential than ideological doctrines."<sup>82</sup>

The rumor was largely orchestrated by the authorities. In the presence of a highly visible opposition since winter 2011-2012, Vladimir Putin, in search of popular support, has constructed a discourse on the defense of traditional values copiously conveyed by the media. He thus came to defend traditional and family values at the first All-Russian Parents Congress on February 9, 2013, making a gesture to this conservative segment of the population. But this discourse does not preclude certain efforts to modernize the state in the field of child welfare, as noted above. Several observers even believe that the mobilization effort has aimed to divert the people's attention from reforms in other areas such as education, which is tending to turn school more into a service provider, calling into question a free education and eliminating school psychologists. The situation can be presented differently: juvenile justice reform, taken in the broad sense, and the reform of the educational system share similar issues in that they both affect the state's role in the life of the family and children. By making a gesture with respect to the former, Vladimir Putin made it possible to push through the latter without resistance.

## **THE AFFIRMATION OF "RUSSIAN CIVILIZATION": THE POSITION OF THE RUSSIAN ORTHODOX CHURCH ON FAMILY LAW REFORMS AND PROBLEMS OF JUVENILE JUSTICE**

In a context where patriotism is taking on increasing importance, and where the special nature of "Russian civilization" is constantly affirmed, the juvenile justice controversy has given the Russian Orthodox Church the opportunity to consolidate its position in the public arena. In the introduction to their edited volume on law, ethics and religion, Philippe Portier and Brigitte Feuillet-Liger make the following remark:

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<sup>80</sup> "Yuvenal'naya yustitsiya...", interview cited, pp. 2-4.

<sup>81</sup> C. Traini and J. Siméant, "Pourquoi et comment sensibiliser à la cause?" in C. Traini (ed.), *Emotions... mobilisations!* Paris, Presses de Sciences Po, 2009, pp. 11-34.

<sup>82</sup> *Ibid.*

“Religions in general do not intend to be confined to worship services. Confirming the Weberian principle of *Lebensführung* (according to which religion always has to do with the “conduct of life”), they all mean to influence the definition of the “conception of the good life” of the societies that host them. Such action is structured around two main strategies. First, a strategy of intervention in the societal arena. [...] Second, a strategy of intervention in the state arena: the institution in this case directly addresses the political-legal class via the interplay of its personal networks [...] or through institutional channels the state has made available to it.”<sup>83</sup>

Even if they cannot recover their formal moral authority over society as a whole, churches have become experts, all the more as religion, as a vehicle of culture and morality, is considered by political personnel as a stabilizing factor. And this expertise brings to bear on the production of norms.<sup>84</sup> But while these premises can be seen to operate the world over, the interpretation of secularity and the experience of pluralism are not the same in all societies considered. Furthermore, Eastern Orthodox Churches, in Russia as well as in Greece, have not fully integrated the principles of modernity. From their standpoint, divine right ideally remains “dominant and normative.”<sup>85</sup>

The World Russian People’s Council,<sup>86</sup> bringing together religious, cultural and political elites, soon latched on to the question of juvenile justice to extend it to that of the family and beyond. During its general assembly in May 2010, Elena Mizulina listed issues that, for her, revolved around the fight against juvenile justice reform: homosexuality propaganda, euthanasia, divorce and adoption of Russian children by foreign nationals.<sup>87</sup> In 2011, Orthodox legal experts denounced the UN Convention on the Rights of the Child and the European Social Charter, deeming that they were incompatible with the Constitution of the Russian Federation and did not suit national interests. Furthermore, finding that “the existence of juvenile courts as well as departments specialized in cases involving minors in the ordinary courts are unconstitutional and that their decisions are not legitimate,” they asked for them to be abolished.<sup>88</sup> And during the Council of Bishops held from February 2 to 5, 2013, after the Inter-Synod Commission (Mezhsobornoe prisutstvie) had worked on the document for two years, the Church hierarchy published the *Position of the Russian Orthodox Church on Reforming Family Rights and Problems of Juvenile Law*.

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<sup>83</sup> B. Feuillet-Liger and P. Portier, “Retour sur une question durkheimienne,” in B. Feuillet-Liger and P. Portier, *Droit, éthique et religion: de l’âge théologique à l’âge bioéthique*, Bruxelles, Bruylant, 2012, p. 33.

<sup>84</sup> P. Rolland, “L’influence des convictions religieuses et éthiques sur la production du droit en France (le dispositif institutionnel),” in B. Feuillet-Liger and P. Portier, *Droit, éthique et religion... op. cit.*, p. 225.

<sup>85</sup> V. Makrides, “Christianisme orthodoxe, éthique et droit en Grèce contemporaine,” in B. Feuillet-Liger and P. Portier, *Droit, éthique et religion... op. cit.*, pp. 242-243.

<sup>86</sup> Founded in 1993, the Council has enjoyed consultative status at the UN since 2005.

<sup>87</sup> While in December 2012 the United States Congress voted sanctions against Russian personalities who were allegedly involved in the death of Russian lawyer Sergei Magnitsky and people who had violated human rights in Russia, Russia passed the “Dima Yakovlev” law, barring United States families from adopting Russian children. It was named for a little 20-month-old boy who had been adopted by an American family and who died as a result of his adoptive parents’ negligence. In the fall of 2013, Elena Mizulina suggested removing the secular aspect from the 1993 Constitution and introducing the idea that Orthodoxy is the foundation of Russia’s national identity and culture.

<sup>88</sup> See “V Moskvě proshla konferentsiya pravoslavnykh yuristov,” <http://newsland.com/news/detail/id/726490/> (accessed May 20, 2014).

This document should be understood within a dual context: It describes a position toward the state, but also a position with respect to the Church, reasserting a voice of authority in the face of its multiple factions, from the most traditionalist to those open to a dialogue with modernity. A document of compromise, which in particular takes its distance from the *derzhavniki*, advocates of a strong Church and a strong state, it did not arouse any real criticism within the Church apparatus. The most hostile element, Bishop Venyamin from Vladivostok, apparently kept quiet during deliberations, whereas Father Dimitri Smirnov, very concerned by the situation of children due to his work in orphanages and boarding schools and harboring no illusions with regard to the state, firmly backed it.

While the early versions of the *Position of the Orthodox Church...* was devoted solely to the matter of juvenile justice, the final document deals more broadly with the family and its rights with respect to the state. Due to the vague definition it is given by society, the document offers its own definition of juvenile justice in its preamble: it is at once “the set of legal norms pertaining to juvenile victims of offenses and juvenile delinquents and the entire array of state and social institutions that are in charge of child welfare.” The Church supports the state in its desire to protect children when their parents cannot fulfill this role. But it considers that “the best way to prevent these problems is to support a healthy family and a strong bond between children and parents.” As regards offenses committed by minors, it calls for a rehabilitative rather than a punitive approach.

In this document, the Church refuses to oppose children’s rights and parents rights and to give priority to the former, arguing that “as a rule, such an approach contradicts the foundations of national constitutional law that equitably guarantees defense of the family, mothers and children.” It states that juvenile justice is in no respect new in Russia and reviews the experience of the Czarist and Soviet eras in this area, but admits the need for civic oversight. The Church in particular would like to see representatives of eparchies and deaneries used as observers, consultants and experts in state wardship and guardianship bodies. It expresses concern about “unjustified interference by the state and other forces outside the family in its personal affairs and in family conflicts.” While in view of its members’ experience in managing orphanages, it acknowledges that removing children is sometimes justified, it emphasizes that “there are cases where the state has taken children away from their family on the basis of vague and non-objective criteria” (“insufficient material living standard, low level of child development, inadequate education”) and warns against subjective interpretations of the law. It calls for precise and concrete standards, while considering that “only the state should make the decision to remove a child from his family and outline the conditions for it.” Lastly, believing that society has lost its moral compass, it advocates patriotic education for the young generation and requests that the state limit “the propaganda of violence, sinful entertainments, the ideology of consumerism, and that it take a greater hand in education along with the Church, the media and the institutions of civil society.”

Beyond this document, the Church’s relationship to juvenile justice reform is not univocal, in that regard similar to the political authorities in their dual aim of modernizing the justice system and asserting Russia’s specificity. Religious figures seem satisfied with the experiment carried out in the region of Rostov. The *miloserdie.ru* website, started by the Church’s Department of Charity and Social Service and its Commission of Social Activities with the Bishops’ Council in

Moscow, published an article by Vera Sharapova in late 2012 arguing in favor of juvenile justice reform that takes up the main aspects of the program for cooperation between Germany and Russia in this area. The *Position of the Russian Orthodox Church on Reforming Family Rights and Problems of Juvenile Law* more than anything reflects the Church's goal to place defense of the traditional family at the center of its concerns and to promote its own conception of human rights, grounded in tradition and opposed to the liberal conception. It aims to present itself as the sole guarantor of Russian civilization.

Other legislation setting out to affirm Russian civilization is currently under discussion, such as the bill put forward by several Duma members led by Aleksei Zhuravlev, president of Rodina - Congress of Russian Communities, that in particular calls for taking custody away from parents who "have allowed non-traditional sexual relations." Having sparked considerable mobilization from human rights organizations, Zhuravlev finally withdrew the bill in April 2014. Nikolai Kavkazskii, from the liberal newspaper *Novaya Gazeta*, warns,

"Zhuravlev's bill should encourage us to exercise vigilance. If Russia continues to stray from secular principles and go down the road of the *domostroy* [16<sup>th</sup> century household rules], the Patriarchate and the policies of a chauvinistic state, such laws could very well come into existence. And the number of minor children taken from the custody of their parents will rise very quickly. Because without a juvenile justice system, they will begin taking children away from anyone unreliable, including members of the opposition, on the pretense that they are not giving them a patriotic enough education, or from members of independent trade unions, because they're too poor. The state's concern [*zabota*] for children is akin to a scalpel that can be used either to remove a tumor or to kill. It can be used properly, as juvenile justice is in European countries, but if it is used for political ends by the ruling regime, this concern could in fact cause enormous harm both to children and to parents."<sup>89</sup>

Was this not all just much ado about nothing? Is this proposed legislation, like others, just a means for Orthodox patriots to test the possibilities of imposing new norms? Norms that will never stick? Alexander Verkhovsky, head of the SOVA center, maintained in his last report that the Orthodox Church is far from being able to claim a hegemonic role today. Religious values nevertheless seem to have become part of the legal arsenal and can be mobilized if necessary. This is all the more true as it is becoming increasingly difficult in Russia to engage the Russian Orthodox Church in a debate.

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<sup>89</sup> N. Kavkazskii "Yuvenal'naya yustitsiya i zakon Zhuravleva," *Novaya Gazeta*, October 23, 2013, <http://www.novayagazeta.ru/comments/60387.html> (accessed May 20, 2014).



## CONCLUSION

Yet, Russian society is evolving. Despite the construction of the juvenile justice issue as a conflict of civilizations by the pro-regime media, and despite the growing presence of the Orthodox Church in the public space to defend the traditional family, in Russia today the values of parenthood and child upbringing are undergoing a noticeable although hardly perceptible transformation. And according to Maria Mayofis and Ilya Kukulin, this transformation could lead to the creation of public awareness. "The attitude toward 'other people's' children in situations of distress, be it illness or orphanage, necessarily raises the question of responsibilities to individuals, society and the state."<sup>90</sup>

The plan for juvenile justice reform and the outcome it will have thus correspond to a much larger political issue. "Sociologists talk about a wide diversity of models adopted in Russian society and the growing number of families focusing on children, in other words in which children's interests have prominence. The attitude toward other people's children (what we could call 'citizen parenthood') is gradually changing."<sup>91</sup> An analysis of blogs and certain media outlets shows that the idea of relations of trust between parents and children is making its way among the middle classes. There is a paradoxical gap as well between the values promoted for society and those that unfold in the private sphere: in a Russia dominated by paternalism, the desire for order, faith in a political strongman, and the conviction that salvation comes through a strong state, the family on the contrary appears as the place for asserting individual autonomy. "To put it more simply, family values have begun to change precisely because the political elites paid no attention to them in the 1990s and the early 2000s."<sup>92</sup>

Are we witnessing today a propaganda campaign aiming to counter these evolutions? And would it be, after all, a rearguard battle? Perhaps. But it indeed seems that implementation of international norms and judicial reform has been largely blocked by the patriotic agenda of the state.

Translated from the French by **Cynthia Schoch**

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<sup>90</sup> M. Mayofis and I. Kukulin, "Novoe roditel'stvo i ego politicheskie aspekty," *op. cit.*

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

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